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1 WHEREAS, on March 12, 2009, the Clerk of the Court issued a Reassignment Order
2 pursuant to which this action was reassigned from Magistrate Judge Patricia Trumbull to Judge
3 Ronald M. Whyte for all further proceedings;

4 WHEREAS, on March 17, 2009, the Court served Notice that a Case Management
5 Conference had been scheduled for April 17, 2009 before Judge Ronald M. Whyte;

6 WHEREAS, because of the intervening Passover holiday, and various scheduling conflicts,
7 the parties mutually agreed to appear for a case management conference that was held on June 5,
8 2009;

9 WHEREAS, the parties submitted a Proposed Scheduling Order on June 11, 2009, filed as
10 Docket Entry No. 58 ("D.I. 58"), which the Court has not yet signed;

11 WHEREAS, the parties exchanged Infringement Contentions on June 19, 2009;

12 WHEREAS, the parties exchanged Invalidity Contentions on August 3, 2009;

13 WHEREAS, the parties mutually agreed to reschedule the Mediation from August 12 to
14 September 2, 2009 to accommodate Jackson's counsel, Michael Rader, requiring surgery during
15 the month of August 2009;

16 WHEREAS, as set forth in the Declaration of Richard Eskew dated August 18, 2009, and
17 filed concurrently herewith, because CIEA's counsel, Ronald Daignault, has been responsible for
18 the day-to-day management of the present Action. Unfortunately, Mr. Daignault has been ill for
19 several days and is currently in the hospital recovering from his illness. As a result, it will be
20 unduly burdensome on Plaintiff CIEA to finalize and serve the Patent L.R. 4-1 Proposed Terms for
21 Construction by the August 17, 2009 deadline;

22 WHEREAS, the undersigned has met and conferred with counsel for Jackson and counsel
23 for Jackson stipulates to a two (2) week extension of time to serve the Patent L.R. 4-1 Proposed
24 Terms for Construction, from August 17 to August 31, 2009;

25 WHEREAS, such extension will require alteration of the following deadlines set in D.I. 58,
26 and counsel for Jackson likewise stipulates to these changes:
27
28

- 1 1. Patent L.R. 4-2 exchange of Preliminary Claim Constructions and Extrinsic
2 Evidence from September 7 to September 21, 2009;
- 3 2. Patent L.R. 4-3 exchange of Joint Claim Construction and Prehearing Statement
4 from October 2 to October 9, 2009;
- 5 3. Letters in support of leave to file summary judgment motion (addressing whether
6 the proposed motion is dictated solely by claim construction and no disputed issues of material
7 fact; 5-page limit per party) from October 2 to October 9, 2009; and
- 8 4. Responsive letter(s) regarding leave to file summary judgment motion (3-page limit
9 per party) from October 9 to October 16, 2009.

10 NOW THEREFORE, IT IS HEREBY STIPULATED by and between counsel for the
11 parties as follows:

- 12 1. The exchange of Patent L.R. 4-1 Proposed Terms for Construction will take place
13 on August 31, 2009;
- 14 2. The exchange of Patent L.R. 4-2 Preliminary Claim Constructions and Extrinsic
15 Evidence will take place on September 21, 2009;
- 16 3. The exchange of Patent L.R. 4-3 Joint Claim Construction and Prehearing Statement
17 will take place on October 9, 2009;
- 18 4. Letters in support of leave to file summary judgment motion (addressing whether
19 the proposed motion is dictated solely by claim construction and no disputed issues of material
20 fact; 5-page limit per party) will be due on October 9, 2009; and
- 21 5. Responsive letter(s) regarding leave to file summary judgment motion (3-page limit
22 per party) will be due on October 16, 2009.

6. The remaining deadlines set forth in D.I. 58, which remain unchanged from the deadlines set by the Court at the June 5, 23008 Case Management Conference, are hereby endorsed by the Court as follows:

EVENT	DATE
PLR 4-4 Completion of Claim Constr. Discovery	November 2, 2009
PLR 4-5(a) Opening Claim Constr. Briefs (by CIEA as to the '055 patent and by Jackson as to the '173 patent) (and if applicable, combined with summary-judgment brief)	November 16, 2009
PLR 4-5(b) Responsive Claim Constr. Briefs (by Jackson as to the '055 patent and by CIEA as to the '173 patent) (and if applicable, combined with responsive summary-judgment brief)	November 30, 2009
PLR 4-5(c) Reply Claim Constr. Briefs (by CIEA as to the '055 patent and by Jackson as to the '173 patent) (and if applicable, combined with reply summary-judgment brief)	December 9, 2009
Technology Tutorial (1.5 hours per party)	January 26, 2010
PLR 4-6 Claim Constr. Hearing (and if applicable, combined with summary-judgment hearing)	January 26-27, 2010

Dated: August 18, 2009

Respectfully submitted,

KRIEG, KELLER, SLOAN, REILLEY & ROMAN LLP

By: /s/ Michael D. Lisi

Michael D. Lisi

Attorneys for Plaintiff

The Central Institute for Experimental Animals

Dated: August 18, 2009

Respectfully submitted,

WOLF, GREENFIELD & SACKS, P.C.

By: /s/ Michael N. Rader

Michael N. Rader

Attorneys for Defendant

The Jackson Laboratory

1 I hereby attest that I have been authorized by Michael N. Rader to execute on his behalf this
2 Stipulation and [Proposed] Order to Extend Time for the Exchange of Proposed Terms for
3 Construction.

4 Executed on this 18th day of August, 2009 at San Francisco, California.

5
6 /s/ Michael D. Lisi

MICHAEL D. LISI

7
8
9 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

10
11 Dated 8/25/09



The Honorable Ronald M. Whyte
United States District Judge

1 **CERTIFICATE OF SERVICE**


2 I hereby certify that on this 18th day of August, 2009, I caused a true and correct copy of the
3 foregoing:

4 **STIPULATION AND [PROPOSED] ORDER TO EXTEND**
5 **TIME FOR THE EXCHANGE OF PROPOSED TERMS FOR**
6 **CONSTRUCTION**

6 to be served by email and first class mail upon the following counsel of record for Defendant:

7 Howard A. Slavitt
8 Coblentz, Patch, Duffy & Bass, LLP
9 One Ferry Building, Suite 200
San Francisco, California 94111-4213

10 Michael A. Albert
11 Michael N. Rader
12 Chelsea A. Loughran
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14 600 Atlantic Avenue
15 Boston, Massachusetts 02210-2206

14 By: 
15 Joy Morla